

UNITED STATES DISTRICT COURT  
for the

Western District of North Carolina

**Order Regarding Motion for Sentence Reduction Pursuant to 18 U.S.C. § 3582(c)(2)**

Upon motion of  the defendant  the Director of the Bureau of Prisons  the court under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and having considered such motion.

IT IS ORDERED that the motion is:

## **I. COURT DETERMINATION OF GUIDELINE RANGE (Prior to Any Departures)**

Previous Offense Level: 34 Amended Offense Level: 32  
Criminal History Category: VI Criminal History Category: VI  
Previous Guideline Range: Life to Life months Amended Guideline Range: 360 to 360 months

## II. SENTENCE RELATIVE TO AMENDED GUIDELINE RANGE

- The reduced sentence is within the amended guideline range.
- The previous term of imprisonment imposed was less than the guideline range applicable to the defendant at the time of sentencing as a result of a departure or Rule 35 reduction, and the reduced sentence is comparably less than the amended guideline range.
- Other (explain): No reduction as the original sentence in this case was limited to the statutory maximum of 360 months by *Apprendi v. New Jersey*, which then became the applicable guideline range, per USSG §5G1.1(a). (A Notice under 21 U.S.C. § 851 was granted, which enhanced the statutory minimum sentence to a term of Life)

### III. ADDITIONAL COMMENTS

Except as provided above, all provisions of the judgment dated August 13, 2001, shall remain in effect.

**IT IS SO ORDERED.**

Order Date: August 5, 2011

Effective Date: August 5, 2011  
(if different from order date)



Richard L. Webster

Richard L. Voorhees  
United States District Judge

